IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

TUESDAY, THE 19TH DECEMBER 2006 / 28TH AGRAHAYANA 1928

Bail Appl..No. 7588 of 2006()

AGAINST THE JUDGEMENT IN OP.20858/2001
CRIME NO.147/06 OF MARAYOOR POLICE STATION.

.....

PETITIONERS/ACCUSED 1 TO 7

---

1. V. SREEKUMAR, AGED 47, S/O. VASUDEVAN NAIR, MALIYECKAL HOUSE, CHERANELLOOR KARA, CHERANELLOOR VILLAGE, KUNNATHUNADU TALUK.

2. A.D. ALEXANDER, AGED 44, S/O. DANIEL, ALUMMOOTTIL HOUSE, PEERMADE TALUK, AMARAVATHY KARA, KUMILY VILLAGE.

3. A.V.VINOD, AGED 36, S/O. VELU, ALACKAL HOUSE, KORANGATTI KARA, MANNAMKANDOM VILLAGE, DEVICULAM.

4. S.RAJAGOPAL, AGED 31, S/O.SUKUMARAN ACHARI, AASARI AZHAKATHU HOUSE, CHAKUVARACKAL KARA, CHACKUVARAKKAL VILLAGE, KOTTARAKARA TALUK.

5. DEEPAK K.J., S/O. YOHANNAN, AGED 34 YEARS, KADALIKADU HOUSE, KODALIPARA KARA, AYYAPPANCOVIL VILLAGE.

6. BAIJU CHETTIAR, S/O.SUBRAMANIYAN CHETTIYAR, CHARUVILAPUTHEN VEEDU, KOTTAPURAM KARA,KADACKAL VILLAGE,KOTTARAKARA TALUK

7. ANILKUMAR, S/O. NARAYANAN, VANKADATHARA HOUSE, CHENGALAM KARA, CHENGALAM VILLAGE, KOTTAYAM TALUK.

BY ADV. SRI.S.SREEKUMAR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM. (CRIME NO.147 OF 2006 OF MARAYOOR POLICE STATION).

BY DGP SHRI P.G.THAMPI

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 19/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V.RAMKUMAR, J.

B.A.No.7588 OF 2006

DATED THIS THE 19TH DAY OF DECEMBER, 2006

O R D E R

Petitioners who are accused, 2, 3, 6, 7, 8, 9 and 11 in Crime No.147/06 of Marayoor Police Station for offences punishable under sections 109, 114, 348, 330 and 302 read with section 34 IPC, seek anticipatory bail. The occurrence took place in the night of 23.11.2006.

2. Shri P.G.Thampi, Director General of Prosecution opposed the application submitting, inter alia, that anticipatory bail should not granted in a case of this nature, where there is prima facie evidence of custodial torture.

3. All the petitioners are officers of the Forest Department. The deceased was one Babu Thomas, aged 30 years who was allegedly an accused in several forest cases such as O.R.No.21/03, 7/03, 4/03, 12/02, 3/02 and 11/02 of Kaliyar Range. He is stated to be a wanted criminal in various other forest offences. He is also stated to be an important link in the forest mafia. He is alleged to have led the forest party to the spot for detecting the sandal wood which had been clandestinely cut and removed from the Marayoor Forest and is stated to have thrown the forest party off the scent.

4. The deceased had sustained 20 injuries most of which are contusions on various parts of the body. The justification put forward is that he had fallen down in the course of a scuffle and he had rolled on the ground where the terrain is rough, uneven and slopping and he allegedly sustained those injuries. It is too early to conclude either way. But in a case involving the death of a person, grant of anticipatory bail may not be justified and it can only send a wrong signal. But at the same time, the petitioners having approached this court should be directed to surrender before the Investigating Officer on any day between 20.12.2006 and 23.12.2006 for the purpose of custodial interrogation and recovery, if any. The Investigating Officer shall thereafter produce the petitioners before the Magistrate having jurisdiction, who shall dispose of the application for regular bail filed by the petitioners, preferably on the same date on which it is filed, taking note of the fact that the petitioners are Government servants in service and they might have by then be interrogated by the Investigating Officer. The Magistrate may also take into account the decisions of this court in **Sukumari v. State of Kerala (2001 (1)KLT 22)** and **Noushad v. State of Kerala (2002 (2) KLT(SN) 97)**.

With the above direction, this petition is dismissed.

V.RAMKUMAR, JUDGE

dsn